No. 880

JUL 29 1970

E. ROBERT SEAVER, C

In the Supreme Court of the United States

OCTOBER TERM, 1970

PAUL EDWARD SIMON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D. C. 20530.

In the Supreme Court of the United States

OCTOBER TERM, 1970

No. 330.

PAUL EDWARD SIMON, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

Petitioner was convicted in the District of Arizona of unlawfully importing marihuana in violation of 21 U.S.C. 176a and importing drugs contrary to law in violation of 18 U.S.C. 545. He was given a sentence of five years on the marihuana count and two years on the other, the sentences to run concurrently. The court of appeals affirmed the conviction.

Petitioner contends that the statutes are invalid as applied in that declaration at the border of the sub-

stances he was trying to bring into the United States would have required him to incriminate himself. This contention has uniformly been rejected. See, as to marijuana, *Witt* v. *United States*, 413 F. 2d 303 (C.A. 9), certiorari denied, 396 U.S. 932; *United States* v. *Reyes Meza De Polanco*, 422 F. 2d 1301 (C.A. 9), certiorari denied May 4, 1970, No. 1879, Misc., Oct. Term, 1969; and, as to drugs, Memorandum for the United States in *Perez* v. *United States*, No. 5307, this Term.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

JULY 1970.

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